

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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5 UNITED STATES OF AMERICA,

6 Plaintiff,

2:12-cr-00118-JAD-VCF

7 vs.

**ORDER**

8 MICHAEL C. GARCIA,

9 Defendant.  
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11 Before the court are Michael Garcia's Motion to Vacate Plea Agreement (#98<sup>1</sup>), Motion for  
12 Change of Counsel (#99), Motion for a Hearing (#100), Motion for Order to Show Cause (#104),  
13 Motion to Dismiss (#109), and Motion for an Order (#110). In response, the Government has filed three  
14 motions to strike (#101, #106, and #112). Defendant's motions were signed by Katrina Garcia,  
15 Defendant Michael Garcia's mother.

16 Katrina Garcia's motions are denied. Katrina Garcia is not a party to this action. She is not an  
17 attorney. Local Rule IA 10-6(a) states, "[a] party who has appeared by attorney cannot while so  
18 represented appear or act in the case." Further, pursuant to Local Rules IA 10-1 through 10-5, only  
19 attorneys and supervised law clerks are permitted to appear before the court. The Ninth Circuit has held  
20 that although a party may appear *pro se* on his or her own behalf, an individual "has no authority to  
21 appear as an attorney for other than himself." *Johns v. County of San Diego*, 114 F.3d 874, 876 (9th Cir.  
22 1997) (citing *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir.1987)). The right to  
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25 <sup>1</sup> Parenthetical citations refer to the court's docket.

1 self-representation is personal. *Russell v. United States*, 308 F.2d 78, 79 (9th Cir. 1962). It cannot be  
2 assigned or transferred by executing a power of attorney, as was attempted here. *See id.*

3 Because Katrina Garcia is not a party or an attorney, she does not have standing in this court and  
4 may not file motions on her son's behalf. *See* Local Rule IA 10-1(a); *Johns*, 114 F.3d at 876. The court  
5 is sympatric with Katrina Garcia's cause; it understands that, as Defendant's mother, Katrina Garcia is  
6 merely trying to protect her child. Violating the Local Rules and Ninth Circuit authority, however, is  
7 counterproductive. U.S. Magistrate Judge Robert J. Johnston and the undersigned U.S. Magistrate Judge  
8 have previously ordered Katrina Garcia to comply with the Local Rules and stricken her filings.  
9 (October 25, 2012, Order (#33) at 1); (October 29, 2012, Order (#36) at 1); (May 15, 2013, Order (#71)  
10 at 2.). Katrina Garcia, nonetheless, disregarded the court's orders and filed six motions on her son's  
11 behalf. (*See* #98, #99, #100, #104, #109, and #110).

12 Accordingly, on October 2, 2013, the court held a hearing on Katrina Garcia's motions. (Mins.  
13 Proceedings (#113)). Katrina Garcia was appointed counsel at government expense<sup>2</sup>. (*Id.*) The court  
14 expressly ordered Katrina Garcia to stop filing motions on her son's behalf. (*Id.*) The court also  
15 cautioned Katrina Garcia that if she files additional motions with the court she will be ordered to show  
16 cause as to why the court should not hold her in contempt and either fine or incarcerate her. (*Id.*) This is  
17 the court's final warning.

18 ACCORDINGLY, and for good cause shown,

19 IT IS ORDERED that Katrina Garcia's motions (#98, #99, #100, #104, #109, and #110) are  
20 DENIED.

21 IT IS FURTHER ORDERED that the Government's Motions to Strike (#101, #106, and #112)  
22 are GRANTED.

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<sup>2</sup> Ms. Karen Winckler was appointed as counsel to represent Katrina Garcia in case  
no. 2:13-ms-00071.

1 IT IS FURTHER ORDERED that the clerk of court will hold, receive stamp, and forward to the  
2 undersigned Magistrate Judge's chambers any document that Katrina Garcia attempts to submit to the  
3 court in this case. A contempt hearing will then be scheduled.

4 IT IS FURTHER ORDERED that the clerk of court forward, via e-mail, a copy of this order to  
5 Ms. Karen Winckler at Winckler@wswlawlv.com.

6 IT IS SO ORDERED.

7 DATED this 4th day of October, 2013.

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10 CAM FERENBACH  
11 UNITED STATES MAGISTRATE JUDGE  
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